

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

0

CIVIL MINUTES - GENERAL

Case No.	ML 12-2317 CAS (JEMx) [Relates to: CV 11-5321 CAS (JEMx)]	Date	March 20, 2012
Title	IN RE ORECK CORPORATION HALO VACUUM AND AIR PURIFIERS MARKETING AND SALES PRACTICES LITIGATION [Relates to: GINA CHENIER; ET AL. v. ORECK CORP.]		

Present: The Honorable		CHRISTINA A. SNYDER	
CATHERINE JEANG		Not Present	
Deputy Clerk		N/A	
Court Reporter / Recorder		Tape No.	
Attorneys Present for Plaintiffs:		Attorneys Present for Defendants:	
Not Present		Not Present	

Proceedings: (In Chambers:) **DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT** (filed 09/19/11)

DEFENDANT'S MOTION TO STRIKE PORTIONS OF THE FIRST AMENDED COMPLAINT (filed 09/19/11)

I. INTRODUCTION

On June 24, 2011, plaintiffs Gina Chenier and Gaya Yosri ("plaintiffs") filed a putative class action against Oreck Corporation ("Oreck") in connection with the marketing and sale of Oreck's Halo vacuum cleaners. On August, 30, 2011, plaintiffs filed a first amended class action complaint ("FAC") that adds claims regarding the marketing and sale of Oreck's ProShield Plus Air Purifiers. The FAC alleges: (1) violation of the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*; (2) breach of express warranties; (3) breach of implied warranties; (4) violation of the Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*; (5) violations of the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.*; (6) violation of the Song-Beverly Consumer Warranty Act, Cal. Civ. Code §§ 1790 *et seq.*; (7) violation of the Utah Consumer Sales Practices Act; and (8) violation of the Utah Truth in Advertising Act.

On August 15, 2011, Oreck filed a motion to stay the case in order to obtain a ruling from the Judicial Panel on Multidistrict Litigation ("MDL Panel") as to whether

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

0

CIVIL MINUTES - GENERAL

Case No.	ML 12-2317 CAS (JEMx) [Relates to: CV 11-5321 CAS (JEMx)]	Date	March 20, 2012
Title	IN RE ORECK CORPORATION HALO VACUUM AND AIR PURIFIERS MARKETING AND SALES PRACTICES LITIGATION [Relates to: GINA CHENIER; ET AL. v. ORECK CORP.]		

this case and five similar cases should be consolidated. On September 19, 2011, Oreck filed the instant motions to dismiss and to strike portions of the FAC. Plaintiff filed an opposition to the motions on October 3, 2011. Oreck filed its reply on October 7, 2011. The Court held a hearing on Oreck's three motions on October 24, 2011, in which it granted Oreck's motion to stay and directed the parties to seek consolidation from the MDL Panel. The Court also provided the parties with a tentative ruling on Oreck's motion to dismiss and motion to strike. Specifically, the Court tentatively denied Oreck's motion to strike, and tentatively granted in part and denied in part its motion to dismiss. In light of the Court's decision to stay the case, the Court never issued a final ruling on Oreck's motions to dismiss and strike.

On February 3, 2012, the MDL Panel centralized and transferred six related cases to this Court pursuant to 28 U.S.C. § 1407.¹ See In re Oreck Corp. Halo Vacuum and Air Purifiers Mktg. and Sales Practices Litig., ML 12-2317 CAS (JEMx).

In light of the MDL Panel's transfer order, the Court hereby DENIES Oreck's motion to dismiss and motion to strike as moot without prejudice.

IT IS SO ORDERED.

00 : 00

Initials of Preparer CMJ

¹The six cases include the present action and the five following actions: Roxy Edge, et al. v. Oreck Corporation, et al., CV No. 2:11-8725 (Central District of California); Teri Latta v. Oreck Corporation, et al., CV No. 5:11-1082 (Central District of California); Scott Stiepleman v. Oreck Corporation, et al., CV No. 0:11-61861 (Southern District of Florida); Gregory Ruscitti v. Oreck Corporation, CV No. 1:11-3121 (Northern District of Illinois); Edward Paragin v. Oreck Corporation, et al., CV No. 1:11-580 (Southern District of Ohio).